

ORIGINAL

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

ORIGINAL  
FILE

In the Matter of )  
 )  
CELSAT, INC. )  
 )  
Request for a Pioneer's Preference )  
Regarding its Petition for Rule )  
Making to Allocate Spectrum and to )  
Establish Rules and Policies for a )  
New Hybrid Personal Communications )  
Network Service )

RM-7927  
PP-28

RECEIVED

MAY 5 1992

To: The Commission

Federal Communications Commission  
Office of the Secretary

**MOTION FOR STAY**

TRW Inc. ("TRW"), by its attorneys and pursuant to Sections 1.44(e) and 1.429(k) of the Commission's Rules, hereby respectfully requests the Commission to stay action on the above-captioned pioneer's preference request of CELSAT, Inc. ("Celsat") until there has been a final resolution of the issues raised in TRW's pending petition for further reconsideration in GEN Docket No. 90-217, the rule making proceeding to establish a pioneer's preference ("Docket 90-217"). See Establishment of Procedures to Provide a Preference to Applicants Proposing an Allocation for New Services, 6 FCC Rcd 3488 (1991), recon. in part, 7 FCC Rcd 1808 (1992), recon. pending.\*/

\*/ Nothing in this motion alters TRW's belief that Celsat's request for pioneer's preference and its associated petition for rulemaking should be dismissed outright. See TRW Petition to Dismiss or Deny Request for Pioneer's Preference of Celsat, Inc., File No. PP-28 (filed April 8, 1992); TRW Petition to Dismiss Rulemaking Request of Celsat, Inc., RM-7927 (filed April 8, 1992).

No. of Copies rec'd  
List A B C D E

TRW and five other applicants have requested authorization to provide radiodetermination satellite service ("RDSS") and/or mobile satellite services ("MSS") in the 1610-1626.5 MHz and 2483.5-2500 MHz bands (the "RDSS bands"). Five of these six applicants have filed requests for pioneer's preferences under Section 1.402 of the Commission's Rules. Celsat, though it has not filed an application, has announced in the above-captioned pioneer's preference request and in its associated petition for rule making that it is contemplating the use of some or all of the RDSS-band frequencies for the so-called "hybrid personal communications network" satellite system it has proposed in concept.

On this date, TRW has, by separate pleading, moved the Commission to refrain from acting on the five RDSS-band pioneer's preference requests the Commission has consolidated into ET Docket No. 92-28 until the issues outstanding in Docket 90-217 have been finally resolved. See TRW Motion for Stay in ET Docket No. 92-28 (filed May 5, 1992) ("Motion"). In its Motion, TRW noted that it had, on April 6, 1992, filed a Petition For Further Reconsideration ("Petition") in Docket 90-217. TRW noted further that its Petition demonstrated that where two or more mutually exclusive applications have been filed prior to submission of pioneer's preference requests (as in the RDSS proceeding), treatment of the pioneer's preference as a dispositive factor imposes a new threshold application criterion, thereby depriving non-"preferenced" applicants of


the meaningful comparative consideration dictated by the Supreme Court in Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945). See Motion at 3-4 (citing Petition at 5-12).

On the basis of the serious issues raised that are pending on reconsideration in Docket 90-217, TRW urged that its motion for stay be granted. TRW demonstrated its satisfaction of the showings that must be made before a stay will issue, and those criteria are at least equally satisfied here. Accordingly, TRW hereby incorporates its Motion by reference into the instant motion for stay.

In sum, TRW urges the Commission to refrain from acting favorably on Celsat's request (assuming arguendo that Celsat is even eligible for a pioneer's preference in the first instance). The showings TRW made in its Motion apply with even greater vigor here, and the stay should be issued.

Respectfully submitted,

TRW Inc.

By: 

Norman P. Leventhal  
Raul R. Rodriguez  
Stephen D. Baruch

Leventhal, Senter & Lerman  
2000 K Street, N.W.  
Suite 600  
Washington, D.C. 20006  
(202) 429-8970

May 5, 1992

Its Attorneys

**CERTIFICATE OF SERVICE**

I, Katharine K. Bryant, hereby certify that a copy of the foregoing "Motion to Stay" was served by first-class mail, postage prepaid, this 5th day of May 1992, on the following persons:

\*Chairman Alfred C. Sikes  
Federal Communications Commission  
Room 814  
1919 M Street, N.W.  
Washington, D.C. 20554

\*Commissioner James H. Quello  
Federal Communications Commission  
Room 802  
1919 M Street, N.W.  
Washington, D.C. 20554

\*Commissioner Sherrie P. Marshall  
Federal Communications Commission  
Room 826  
1919 M Street, N.W.  
Washington, D.C. 20554

\*Commissioner Andrew C. Barrett  
Federal Communications Commission  
Room 844  
1919 M Street, N.W.  
Washington, D.C. 20554

\*Commissioner Ervin S. Duggan  
Federal Communications Commission  
Room 832  
1919 M Street, N.W.  
Washington, D.C. 20554

\*Thomas P. Stanley  
Chief Engineer  
Federal Communications Commission  
2025 M Street, N.W.  
Room 7002  
Washington, D.C. 20554

\*Via Hand Delivery

\*Cheryl A. Tritt  
Chief, Common Carrier Bureau  
Federal Communications Commission  
Room 500  
1919 M Street, N.W.  
Washington, D.C. 20554

\*Robert L. Pettit  
General Counsel  
Federal Communications Commission  
Room 614  
1919 M Street, N.W.  
Washington, D.C. 20554

\*William Torak  
Deputy Chief, Spectrum Engineering Division  
Federal Communications Commission  
Room 7130  
2025 M Street, N.W.  
Washington, D.C. 20554

\*Raymond LaForge  
Federal Communications Commission  
Room 7334  
2025 M Street, N.W.  
Washington, D.C. 20554

\*Wendell R. Harris  
Assistant Bureau Chief  
Common Carrier Bureau  
Federal Communications Commission  
Room 7130  
2025 M Street, N.W.  
Washington, D.C. 20554

\*Cecily C. Holiday  
Chief, Satellite Radio Branch  
Federal Communications Commission  
Room 6324  
2025 M Street, N.W.  
Washington, D.C. 20554

\*James R. Keegan  
Chief, Domestic Facilities Division  
Common Carrier Bureau  
Federal Communications Commission  
Room 6010  
2025 M Street, N.W.  
Washington, D.C. 20554

\*Via Hand Delivery

\*Thomas Tycz  
Deputy Chief, Domestic Facilities Division  
Common Carrier Bureau  
Federal Communications Commission  
Room 6010  
2025 M Street, N.W.  
Washington, D.C. 20554

\*Fern J. Jarmulnek  
Satellite Radio Branch  
Federal Communications Commission  
2025 M Street, N.W.  
Room 6324  
Washington, D.C. 20554

Lon C. Levin, Esq.  
Leslie A. L. Borden, Esq.  
Vice President & General Counsel  
American Mobile Satellite Corporation  
1150 Connecticut Avenue, N.W.  
4th Floor  
Washington, D.C. 20036

Bruce D. Jacobs, Esq.  
Glenn S. Richards, Esq.  
Fisher, Wayland, Cooper & Leader  
1255 23rd Street, N.W.  
Suite 800  
Washington, D.C. 20037  
(Counsel for AMSC)

Robert A. Mazer, Esq.  
Albert Shuldiner, Esq.  
Nixon, Hargrave, Devans & Doyle  
One Thomas Circle, N.W.  
Suite 800  
Washington, D.C. 20005  
(Counsel for Constellation)

Jill Abeshouse Stern, Esq.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street, N.W.  
Washington, D.C. 20037  
(Counsel for Ellipsat)

Linda K. Smith, Esq.  
Robert M. Halperin, Esq.  
Crowell & Moring  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
(Counsel for Loral)

\*Via Hand Delivery

Leslie Taylor, Esq.  
Leslie Taylor Associates  
6800 Carlynn Court  
Bethesda, MD 20817-4302  
(Counsel for Loral)

Veronica Haggart, Esq.  
Robert Frieden, Esq.  
Motorola, Inc.  
1350 I Street, N.W.  
Suite 400  
Washington, D.C. 20005

Philip L. Malet, Esq.  
Steptoe & Johnson  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(Counsel for Motorola)

Victor J. Toth, Esq.  
Law Offices of Victor J. Toth, P.C.  
2719 Soapstone Drive  
Reston, VA 22091  
(Counsel for CELSAT, INC.)

Daniel L. Bart, Esq.  
GTE Service Corporation  
1850 M Street, N.W.  
Suite 1200  
Washington, D.C. 20036  
(Counsel for GTE Service Corporation)

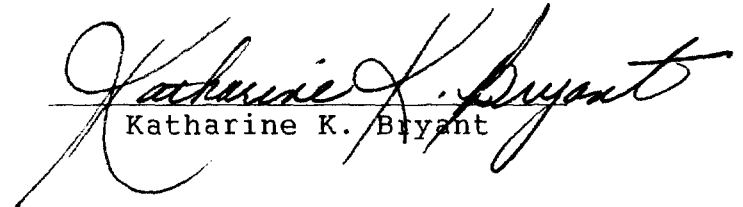
Richard McKenna, Esq.  
HQE03J36  
GTE Service Corporation  
P.O. Box 152092  
Irving, TX 75015-2092  
(Counsel for GTE Service Corporation)

Dr. Frank Press  
President  
National Academy of Sciences'  
Committee on Radio Frequencies  
2101 Constitution Avenue, N.W.  
Washington, D.C. 20418

Dr. Robert L. Riemer  
Committee on Radio Frequencies  
HA-562  
National Research Council  
2101 Constitution Avenue, N.W.  
Washington, D.C. 20418

Mr. Richard G. Gould  
Telecommunications Systems  
Suite 600  
1629 K Street, N.W.  
Washington, D.C. 20006

Christopher D. Imlay, Esq.  
Booth, Frefret & Imlay  
1920 N Street, N.W.  
Suite 150  
Washington, D.C. 20036  
(Counsel for The American Radio Relay  
League Incorporated)

  
Katharine K. Bryant